

SENATE SUBSTITUTE TO HB 502

AS PASSED SENATE
A BILL TO BE ENTITLED
AN ACT

1 To amend Article 7 of Chapter 10 of Title 9 and Article 2 of Chapter 8 of Title 17 of the
2 Official Code of Georgia Annotated, relating to continuances relative to civil practice and
3 procedure and continuances relative to trial, respectively, so as to provide for and revise the
4 granting of continuances and stays in civil and criminal cases at certain times and intervals
5 for members and certain staff of the General Assembly for purposes of fulfilling their
6 responsibilities to the General Assembly; to revise continuances for members of the Board
7 of Regents and the Attorney General; to provide for related matters; to provide for
8 applicability; to provide an effective date; to repeal conflicting laws; and for other purposes.

9 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

10 **SECTION 1.**

11 Article 7 of Chapter 10 of Title 9 of the Official Code of Georgia Annotated, relating to
12 continuances relative to civil practice and procedure, is amended by revising Code
13 Section 9-10-150, relating to grounds for continuance – attendance of party or attorney in
14 General Assembly, as follows:

15 "9-10-150.

16 (a) A member of the General Assembly who is a party to or the attorney for a party to a
17 case,~~or; any member of the Office of Legislative Counsel, including the legislative counsel~~
18 and persons provided for under subsection (d) of Code Section 28-4-3, appearing on behalf
19 of the General Assembly in a case; or any member of the staff of the Lieutenant Governor,
20 the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the
21 Speaker Pro Tempore of the House of Representatives, or the chairperson of the Judiciary
22 Committee or Special Judiciary Committee of the Senate or of the Judiciary Committee or
23 Judiciary, Non-civil Committee of the House of Representatives who is the lead counsel
24 for a party to a case pending in any trial or appellate court or before any administrative
25 agency of this state, shall be granted a continuance and stay of the case. The continuance
26 and stay shall apply to all aspects of the case, including, but not limited to, the filing and
27 serving of an answer to a complaint, the making of any discovery or motion, or of any

28 response to any subpoena, discovery, or motion, and appearance at any hearing, trial, or
29 argument. Unless a shorter length of time is requested by the member, the continuance and
30 stay shall last for the seven days prior to the regular or extraordinary session of the General
Assembly; the length of any regular or extraordinary session of the General Assembly; and
31 during the first three weeks following any recess or adjournment, including an adjournment
32 sine die of any regular or extraordinary session; and the entirety of any day during the
33 calendar year on which a legislative committee for which the member serves or is staff
34 holds a scheduled meeting, the member attends a national legislative conference or board
35 meeting, the member attends a caucus meeting, or the member attends a meeting of a study
36 committee of the General Assembly. A continuance and stay shall also be granted for such
37 other times as the member of the General Assembly or staff member certifies to the court
38 that his or her presence elsewhere is required by his or her duties with the General
39 Assembly. Notwithstanding any other provision of law, rule of court, or administrative
40 rule or regulation, the time for doing any act in the case which is delayed by the
41 continuance provided by this Code section shall be automatically extended by the same
42 length of time as the continuance or stay covered.

44 (b)(1) For such other times not provided for in subsection (a) of this Code section, a
45 member of the General Assembly who is a party to a case or the lead counsel for a party
46 to a case may request a continuance or stay as the member of the General Assembly
47 certifies to the court that his or her presence elsewhere is required by his or her duties
48 with the General Assembly. The certification by the member of the General Assembly
49 shall be in writing and shall state with particularity the nature of the General Assembly
50 duties that require the continuance or stay. Opposing counsel, a party to the case, or the
51 court on its own motion shall have ten days from receipt of the request for a continuance
52 or stay to object to the request by stating with particularity the grounds upon which it is
53 determined that such stay or continuance will cause significant harm to the rights of a
54 party or would otherwise be detrimental to the interest of justice. The court upon receipt
55 of the objection, or on its own motion, shall consider the following in determining
56 whether to grant or deny the continuance or stay:

- 57 (A) The length of time that the case has been pending;
58 (B) The length of delay that such stay or continuance will cause in the resolution of the
59 case;
60 (C) The nature of the General Assembly duties that require the continuance or stay; and
61 (D) Such other factors that the court determines to be relevant in determining the harm
62 to the rights of the parties or the interest of justice in the granting or denial of the
63 request for a continuance or stay.

64 (2) Absent a ruling by the court denying the continuance or stay certified by the member
65 under paragraph (1) of this subsection, such continuance or stay shall be considered
66 granted as a matter of law."

SECTION 2.

68 Said article is further amended by revising Code Section 9-10-151, relating to grounds for
69 continuance of a member of the Board of Regents, as follows:

70 "9-10-151.

71 Should any member of the Board of Regents of the University System of Georgia or any
72 member of the State Board of Education be engaged otherwise occupied, at the time of any
73 meeting of the board, as counsel or party in any case pending in the courts of this state and
74 should the case be called for trial during the regular session of the board, the absence of the
75 member to attend the session shall be good ground for a postponement or continuance of
76 the case until the session of the board has come to an end."

SECTION 3.

78 Article 2 of Chapter 8 of Title 17 of the Official Code of Georgia Annotated, relating to
79 continuances relative to trial, is amended by revising Code Section 17-8-26, relating to
80 grounds for granting continuances – party or party's attorney in attendance at General
81 Assembly, as follows:

82 "17-8-26.

(a) A member of the General Assembly who is a party to or the attorney for a party to a case; any member of the Office of Legislative Counsel, including the legislative counsel and persons provided for under subsection (d) of Code Section 28-4-3, appearing on behalf of the General Assembly in a case; or any member of the staff of the Lieutenant Governor, the Speaker of the House of Representatives, or the chairperson of the Judiciary Committee or Special Judiciary Committee of the Senate or of the Judiciary Committee or Judiciary, Non-civil Committee of the House of Representatives who is the lead counsel for a party to a case which is pending in any trial or appellate court or before any administrative agency of this state shall be granted a continuance and stay of the case. The continuance and stay shall apply to all aspects of the case, including, but not limited to, the filing and serving of an answer to a complaint, the making of any discovery or motion, or of any response to any subpoena, discovery, or motion, and appearance at any hearing, ~~pretrial appearance, arraignment, plea or motion calendar, trial, or argument. When a case, motion, hearing, or argument is called and is subject to a continuance or stay under this Code section due to the party's attorney's membership in the General Assembly, the party shall not be required to be present at the call of the case, motion, hearing, or argument. Unless~~

99 a shorter length of time is requested by the member, the continuance and stay shall last for
100 the seven days prior to the regular or extraordinary session of the General Assembly; the
101 length of any regular or extraordinary session of the General Assembly; and during the first
102 three weeks following any recess or adjournment, including an adjournment sine die of any
103 regular or extraordinary session; and the entirety of any day during the calendar year on
104 which a legislative committee for which the member serves or is staff holds a scheduled
105 meeting, Notwithstanding any other provision of law, rule of court, or administrative rule
106 or regulation, and to the extent permitted by the Constitutions of the United States and of
107 the State of Georgia, the time for doing any act in the case which is delayed by the
108 continuance or stay provided by this Code section shall be automatically extended by the
109 same length of time as the continuance or stay covered.

110 (b)(1) For such other times not provided for in subsection (a) of this Code section, a
111 member of the General Assembly who is a party to a case or the lead counsel for a party
112 to a case may request a ~~A~~ continuance and stay shall also be granted for such other times
113 as the member of the General Assembly ~~or staff~~ member certifies to the court that his or
114 her presence elsewhere is required by his or her duties with the General Assembly. The
115 certification by the member of the General Assembly shall be in writing and shall state
116 with particularity the nature of the General Assembly duties that require the continuance
117 or stay. Opposing counsel, any person who is alleged in the case by the state to be a
118 victim, or the court on its own motion shall have ten days from receipt of the request for
119 a continuance or stay to object to the request by stating with particularity the grounds
120 upon which it is determined that such stay or continuance will cause significant harm to
121 the rights of a party or would otherwise be detrimental to the interest of justice. The court
122 upon receipt of the objection, or on its own motion, shall consider the following in
123 determining whether to grant or deny the continuance or stay:

124 (A) The length of time that the case has been pending;
125 (B) The length of delay that such stay or continuance will cause in the resolution of the
126 case;
127 (C) The nature of the General Assembly duties that require the continuance or stay; and
128 (D) Such other factors that the court determines to be relevant in determining the harm
129 to the rights of the parties or the interest of justice in the granting or denial of the
130 request for a continuance or stay.

131 (2) Absent a ruling by the court denying the continuance or stay certified by the member
132 under paragraph (1) of this subsection, such continuance or stay shall be considered
133 granted as a matter of law."

134

SECTION 4.

135 Said article is further amended by revising Code Section 17-8-27, relating to grounds for
136 granting of continuances to the Attorney General, as follows:

137 "17-8-27.

138 When any case pending in the courts of this state in which the Attorney General is of
139 counsel is scheduled to be called for any purpose reason during sessions of the General
140 Assembly or during a period of 15 days preceding or following sessions of the General
141 Assembly, on motion of the Attorney General or an assistant attorney general, it shall be
142 a good ground for continuance that the Attorney General and his staff are occupied in aid
143 of the business of the General Assembly."

144

SECTION 5.

145 This Act shall apply to all civil and criminal cases, including, but not limited to, any case
146 currently initiated within any court in this state.

147

SECTION 6.

148 This Act shall become effective upon its approval by the Governor or upon its becoming law
149 without such approval.

150

SECTION 7.

151 All laws and parts of laws in conflict with this Act are repealed.